



News Bulletin

Bureau of
Narcotics & Dangerous Drugs

Missouri Department of Health and Senior Services

health.mo.gov/safety/bnidd/index.php

BNDD's New Online Registration System

The Bureau of Narcotics and Dangerous Drugs began registering mid-level practitioners on December 1, 2012. For better efficiency, a new registration database system was implemented. When completing the application, use the directions to guide you through the process. The following major changes have taken place:

- Sixty days before expiring, registrants will receive a reminder post card instead of a blank application.
- Applications may be obtained from the bureau's website: health.mo.gov/safety/bnidd/index.php. They may be filled out in writing or a person may apply online and click to pay with a credit card.
- Applicants will not want to use Google Chrome as their search engine, they will need to temporarily download and use Silverlight™ software to apply, and applicants will want to disable pop ups on their toolbar.
- Registrations are now limited to only an annual registration for \$30 for practitioners. There are no more multi-year registrations;
- Simultaneous with filling out the BNDD application, practitioners may participate in an annual survey to measure availability and shortage areas. The fields on the application that are mandatory BNDD fields are marked with an asterisk (*) and the unmarked fields relate to the survey and are voluntary.
- Registrations are only valid when they appear online at the bureau's website for verification. Go to: health.mo.gov/safety/bnidd/index.php.



Inside

What constitutes a prescription	2
What do drug seekers look for when talking to practitioners?	3
DEA schedules two drugs	3
Traveling great distances to get prescriptions filled	4
DEA criminal cases on physicians	4

What Constitutes a Legal Prescription?



What makes a prescription legal is addressed by state and federal regulatory agencies and the criminal statutes. There is also case law identifying acceptable practice. Below the Bureau of Narcotics and Dangerous Drugs will address the basic requirements.

Initial Basic Requirements for All Prescribers: 21 CFR 1306.05(a) and 195.060.1, RSMo

- The prescriber must have a current and valid professional license, a Missouri BNDD registration and a federal DEA registration.
- The prescription must be documented and written as required by state and federal law, with all the components of the patient's name and address, date issue, prescriber's name and address, DEA number, drug name, strength, form, quantity, directions for administering, refill authorization and whether substitutions may be permitted. The prescriber has the primary responsibility for issuing a completed prescription.
- The prescription must be for treatment that is within the prescriber's legal scope of practice.
- There must be a legitimate practitioner/patient relationship established.

What Leads to Criminal Acts?

The federal government has ruled that the definition of a "prescription" includes the elements that it has been issued for a legitimate medical purpose in the usual scope of professional practice. Therefore if a prescription is not for an established legitimate medical purpose or is outside the scope of professional practice, this would not rise to the level of being a "prescription" and it would be considered illegal drug distribution.

In reviewing the case, *United States v. Rosen*, 582 F2d 1032 (5th Cir. 1978), the Fifth Circuit United States Court of Appeals summarized cases in which prescribers had been found to have violated the law by issuing prescriptions that were not legal. The court listed the following recurring patterns indicative of diversion and drug abuse:

- The practitioner issued an inordinately large quantity of prescriptions.
- Inordinately large quantities of controlled drug doses were dispensed.
- No physical examination was given by the prescriber or other licensed practitioner under them.
- The prescribers warned and instructed the patient on how to use different pharmacies to avoid detection or suspicion in prescription monitoring programs.
- The prescriber issued the prescriptions knowing the patient was not going to personally use them, but the drugs would be delivered to another person.
- There was no logical relationship between the drugs prescribed and the treatment for the conditions documented in the patient's chart.
- The practitioner prescribed drugs at intervals that were inconsistent with legitimate medical treatment.
- Instead of professional medical terminology, the prescriber used or documented street slang for drugs and paraphernalia.
- The practitioner issued multiple prescriptions in a manner to spread them out and hide the activity.

continued on page 4



What do drug seekers look for when talking to practitioners?

Drug seekers are aware that the actual fraud and crime occurs when they lie or make a false representation to a practitioner. These types of people seek out practitioners who do not ask a lot of questions so the patients do not have to make many false statements. These patients look for the easiest access they can find. Based upon previous cases in speaking with these patients, here is what they have in common:

1. Their doctor simply just gave them what they wanted and their doctor never took the time to question them or disagree with them. The patients wanted a doctor who was too busy to argue.
2. There isn't much writing in their charts. The doctor and staff do not document their prescriptions so it is easy for patients to call in asking for refills. The staff does not know if refills are timely.
3. No one questions why the patient traveled tremendous distances to get prescriptions and then get them filled.
4. They say to the doctors, "You are the only person who will see me." or "No one else can or will treat me." They try to get the doctor to feel that they are their last hope of medical care.
5. They will seek out general practice and family doctors in smaller communities and try to get them to treat their severe and chronic pain issues. The drug seekers said that they can sometimes get more and stronger prescriptions from a general practice rather than going to a specialist in pain management.
6. They listen to their friends and learn who the best doctors are to see to get prescriptions. This information is shared and passed around the community.
7. They seek out emergency rooms where doctors are busy and will give them a prescription for more than an emergency supply, possibly a prescription for 30 days with refills.

DEA Schedules Two Drugs

1. Carisoprodol sold under the brand name of Soma™ will be made a Schedule IV controlled substance effective January 11, 2012.
2. Ezogabine will be placed into Schedule V effective December 15, 2011. This is an anti-convulsive drug used to treat the onset of seizures.

Practitioners are reminded that as these drugs become scheduled by the DEA, a special inventory of these products is required. The inventor of these two drugs should be stapled to your annual inventory documents.

Traveling Great Distances to Get Prescriptions Filled

It can be suspicious when patients repeatedly travel tremendous distances to get their prescriptions filled. It's not a circumstance where the prescription is for a person who is on vacation or temporarily visiting, but a repeated practice where patients are constantly traveling to pharmacies that are far away from their homes to get prescriptions filled. This is something that should be reviewed and dispensed at the judgment of the pharmacist.

In 2008, in disciplining a pharmacy in Eastern Missouri, the Missouri Board of Pharmacy cited numerous violations of controlled substance laws and the practice act. However, one of the citations was for a lapse in security when the pharmacy acknowledged some prescriptions were questionable, but continued to fill prescriptions from patients living over 100 miles away.

DEA Criminal Cases on Physicians

The DEA recently issued a document tracking their cases that result in criminal charges against physicians--MDs and DOs. The document tracks cases from 2003 to current date. The document can be found at: www.deadiversion.usdoj.gov.

The data includes specific violations in each case. Based upon available data, the following was determined:

- an estimated 498,109 physicians registered nationwide in 2009
- 228 criminal cases listed spanning 8 years
- approximately 28 physicians per year were prosecuted criminally
- physicians were illegally selling, illegally distributing, committing billing fraud and had multiple criminal violations

legal prescriptions continued from page 2

Examples of BNDD Cases in Missouri:

Reviewing cases where one of the charges has been unlawful prescribing, the bureau notes the most common violations found in Missouri:

- Practitioners did not have a professional license, state registration or DEA registration in place.
- The practitioner prescribed knowing that the drugs would not be used by the patient but would be transferred to another person or returned to the prescriber for the prescriber to abuse.
- A prescription was issued and there was no patient chart. All medications must be documented in a patient's chart and having a chart with a history--dates seen, diagnosis, and treatment plan--is part of the criteria in determining if there is a legitimate practitioner/patient relationship.
- Prescriptions for pharmaceuticals were issued in exchange for street drugs such as crack, heroin or meth.
- Prescriptions were issued in exchange for sexual or personal favors.
- Prescriptions were issued in the name of a fictitious person so the prescriber could go pick up the drugs.
- When the prescriber knows the patient is not taking the medication as directed and there are repeated re-authorizations for refills way too soon. The prescriber fails to address this with the patient.
- The prescriber issues prescriptions for a patient using multiple names so the patient can get multiple prescriptions at multiple pharmacies without detection.
- Prescribing outside the scope of practice, such as veterinarians prescribing for humans or a dentist treating back pain.

Missouri Department of Health and Senior Services
Bureau of Narcotics and Dangerous Drugs
323 Veterans Lane
PO Box 570
Jefferson City, MO 65102
573/751-6321
573-751-2569 fax
bndd@health.mo.gov
health.mo.gov/safety/bndd/index.php

Alternate forms of this publication for persons with disabilities may be obtained by contacting the Missouri Department of Health and Senior Services, Section for Child Care Regulation, P.O. Box 570, Jefferson City, MO, 65102, 573.751.2450. Hearing- and speech-impaired citizens can dial 711. EEO/AAP services provided on a nondiscriminatory basis.